

A-E CONTRACTING BULLETIN 97-14, 2 OCT 97

SUBJECT: Environmentally Sound Products

1. Bulletin 97-01, 12 February 1997, advised of a new A-E selection criterion (FAR 36.602-1(a)(6)) regarding "demonstrated success in prescribing the use of recovered materials and achieving waste reduction and energy efficiency in facility design." This change was part of a package of interim FAR rules on environmentally sound products. The final FAR rules were recently implemented by Federal Acquisition Circular (FAC) 97-01, published 22 August 1997 and effective 21 October 1997.

2. Partly as a result of HQUSACE comments on the interim rules, the final rules eliminate the separate selection criterion on recovered materials, waste reduction, and energy efficiency. Instead, these parameters are added to the current selection criterion on specialized experience and technical competence. Specifically, FAR 36.602-1(a)(2) is expanded as follows:

"(2) Specialized experience and technical competence in the type of work required, including, where appropriate, experience in energy conservation, pollution prevention, waste reduction, and the use of recovered materials;"

3. FAC 97-01 did not delete the current language in FAR 36.602-1(a)(6). I called the action officer at the FAR Secretariat who agreed that this was an oversight. Hence, another FAC will be issued soon deleting the current language in FAR 36.602-1(a)(6), and making FAR 36.602-1(a)(7) ("Acceptability under other appropriate evaluation criteria.") FAR 36.602-1(a)(6) as it used to be.

4. When drafting CBD announcements, the above selection criterion on specialized experience and technical competence should be customized to reflect the specific contract/project requirements. For work such as surveying and mapping or certain engineering studies, experience in energy conservation, pollution prevention, waste reduction, and the use of recovered materials is irrelevant and would not be included. However, some or all of these experience elements may be relevant in the design of a new building and, therefore, included in the CBD selection criteria.

5. There are two other related changes to FAR Subpart 36.6 in FAC 97-01:

a. FAR 36.601-3(a): Currently this subsection requires an agency "to specifically identify any areas where recovered materials cannot be used in the facility construction." This burdensome requirement is eliminated and replaced with a more reasonable requirement that the A-E statement of work require the consideration of recovered materials, energy consideration, pollution prevention and waste reduction to the maximum extent practicable, where appropriate.

b. FAR 36.602-3(c): Eliminates the requirement to discuss "feasible ways to

prescribe the use of recovered materials and achieve waste reduction and energy-efficiency in facility design” during interviews with the most highly qualified firms.

6. This bulletin has been coordinated with the Office of the Chief Counsel and the Office of the Principal Assistant Responsible for Contracting.

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